

LABOUR DEPARTMENT

The 30th April, 1986

No. 9/6/86-6Lab./37/12. In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) Deputy Commissioner, Ambala, (ii) The Administrator, Ambala Sadar Municipality, Ambala Cantt. :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 300 of 1985

SHRI MAM RAJ, WORKMAN AND THE MANAGEMENT OF THE DEPUTY COMMISSIONER,
AMBALA, THE ADMINISTRATOR, AMBALA SADAR MUNICIPALITY, AMBALA
CANTT.

Present :—

Shri Rajeshwar Nath for workman.

Shri Nirmal Kumar for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,— vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Mam Raj, workman and Messrs Deputy Commissioner, Ambala etc. to this court. The terms of the reference are as under:—

“Whether termination of services of Shri Mam Raj, workman is justified and correct, if not, to what relief is he entitled?”

Mam Raj, workman alleged that he joined service of respondent Municipal Committee through employment exchange on 20th November, 1981. Due to illness of his father he proceeded on leave on 20th February, 1985 but when he reported for duty he was not allowed to join which amounts to an illegal termination of his services in a most arbitrary manner without any notice or without making payment of any wages, in lieu of notice period. It was also alleged that no retrenchment compensation was paid to him. He prayed for his reinstatement with continuity in service with full back wages.

Respondents were served for 3rd February, 1986. Shri Ram Paul official of respondents appeared. Reference was posted for filing reply to claim statement for 26th February, 1986. On that day none appeared for respondent. So respondents proceeded *ex parte*, the reference was posted for recording *ex parte* evidence for 11th March, 1986. On 11th March, 1986 workman appeared along with Shri Rajeshwar Nath one Shri Nirmal Kumar appeared for respondent. Who was informed that the respondent have been proceeded *ex parte*. Shri Nirmal Kumar attended hearing and proceedings of the courts in this dispute. Statement of Shri Mam Raj workman was recorded in presence of Shri Nirmal Kumar. Shri Mam Raj deposed that respondent Municipal Committee Sadar Ambala employed him as a mason in November, 1981. He remained in service of respondent-management upto 20th February, 1986. Thereafter his services were terminated by the respondent-management. He produced records of his absence Ex. A-1 and also produced copy of application which is submitted to Labour Officer which is Ex. A-2 and conciliation proceedings report is Ex. A-3.

Representative of respondent was asked to cross-examination the witness but Shri Nirmal Kumar did not put any question to this witness. So statement of Shri Mam Raj goes unquestioned and unimpeached.

From the statement of Shri Mam Raj, Ex. A-1 it is evident that Shri Mam Raj, workman remained in service of respondent-management with effect from 23rd November, 1981 to 20th February, 1985 more than a period of three years which means that he completed his service more than 240 days. It is settled law that if a workman completes his service more than 240 days in any institution which governed under the Industrial Disputes Act, 1947. In those circumstances if such an institution wants to dispense with services of such a workman it has to comply with provisions of section 25 (F) of I. D. 1947. In other words firstly, it shall issue a notice of one month for termination of service of such a workman or if it wants to terminate service of such a workman then it has to pay one month wages as well as retrenchment compensation as admissible under the rules and has to issue intimation regarding such termination to the appropriate authority, i.e., to the State Government.

But in the case in hand the respondent did not care to contest the dispute and *ex parte* proceedings were taken against them. Accordingly, I pass an *ex parte* order against management, in favour of workman directing the management to reinstate workman Mam Raj from 20th February, 1985 with continuity in service and with full back wages. I pass *ex parte* award regarding the dispute in hand between the parties accordingly.

Dated the 12th March, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 881, dated 18th March, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab/3733.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Markanda Vanaspati Mills Ltd., Shahabad Markanda :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. Nos. 71 to 73 of 1984

S/SHRI BALESHWAR TYAGI, DHARAM VEER, SATPAL WORKMEN AND THE MANAGEMENT OF THE MESSRS MARKANDA VANASPATI MILLS LTD., SHAHABAD, MARKANDA.

Present :—

Shri Madhu Sudan for workmen.

Shri S. Kaushal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 has referred dispute between S/Shri Baleshwar Tyagi, Dharam Veer, Satpal, workmen and Messrs Markanda Vanaspati Mills Ltd., Shahabad to this Court. The terms of the reference are as under:—

“Whether termination of services of S/Shri Baleshwar Tyagi, Dharam Veer, Satpal justified and correct, if not, to what relief are they entitled ?”

All the three workmen alleged through their demand notices that they were in the employment of respondent-management for the last more than one year and their services were terminated on 27th October, 1984 without any reason or cause whatsoever in most illegal and arbitrary manner in violation of section 25(F) of Industrial Disputes Act, 1947. They have prayed for their reinstatement with continuity of service and with full back wages.

Respondent-management contested the references and contended that the workmen were employed as casual labourers. They did not complete service more than one year. In other words they have not at all completed service of 240 days. All the workers of respondent-management proceeded on strike on 19th June, 1984 which lasted up to October, 1984 in spite of that the workmen did not report on duty. They themselves abandoned their employment. It was also contended that even if it is to be admitted for the sake of arguments that services of workmen were terminated. In those circumstances also the management is justified because the workmen went on illegal strike, abstained themselves from their duties so the management was justified in terminating their services. Since none of the workmen had completed services of 240 days, so there was no necessity of compliance of provisions of section 25 (F) of I.D. Act, 1947.

All the three workmen filed replications and they controverted the allegations of management while they reaffirmed their own claims.

On the pleadings of the parties the following issues were framed :

Issues—

- (1) Whether termination order, dated 19th June, 1984 justified, if not, its effect ?
- (2) Relief ?

Before switching on recording evidence of parties, both the parties agreed that all the three references mentioned above are of similar nature and similar evidence shall be recorded, so all these three references be consolidated accordingly after considering requests of the parties. All the three references have been taken together for disposal and evidence was recorded in case *Shri Baleshwar Tyagi versus M/s Markanda Vanaspati Mills, Ltd., Shahabad Markanda.*

Issue No. 1 :

In support of this issue when Baleshwar Tyagi appeared in the witness box. He stated that he joined service of respondent management on 23rd August, 1983 and then proceeded on strike on 19th June, 1984. Shri Bharam Veer stated that he joined service of respondent management on 19th July, 1983 and worked up to 31st October, 1983. During the month of November, 1983 there was no work with the respondent thereafter he worked during the month of December, 1983 and January, February 1984 thereafter in April 1984 and on 19th June, 1984 he went on strike with other workmen.

Shri Satpal stated that he joined service of respondent management on 12th November, 1983 he worked in February, 1984 April, 1984 and thereafter for 19 days in June 1984 and then proceeded on strike with other workmen.

From the side of the management Shri Harjai Lal Security Officer appeared. He brought the attendance register, provident fund register of all the three workmen. Shri Pawan Kumar appeared as MW 1 for respondent management he also made similar statement that workmen worked in the factory of the respondent management less than 240 days and thereafter they absented themselves from their duties. In other words they proceeded on strike on 19th June, 1984 and due to that fact their services were terminated.

In view of above evidence it is clear that none of the workmen completed service of 240 days, even if it is to be admitted for the sake of arguments that their services were terminated by respondent management. In those circumstances there was not necessity of issue of notice or making payment of wages of one month in lieu of notice period and payment of wages regarding retrenchment compensation.

As per admission of all the workmen they worked less than 240 days. It has been admitted by all the three workmen when they appeared in the witness box that they joined strike on 19th June, 1984 with other workmen and due to that fact their services were terminated by the respondent management.

In view of the above facts and evidence present on the file it has become obvious that workmen themselves absented from their duties joined strike, so their services were terminated according to law. So this issue is decided, in favour of management against workmen.

Issue No. 2 :

*For the foregoing reasons on the basis of my issue wise findings on issue No. 1. I think that the termination order regarding services of all the three workmen is justified and correct. I pass award regarding disputes in hand accordingly.

Note.—Copies of this award be placed on all the three references as required under the provisions of Industrial Disputes Act.

Dated : 3rd April, 1986.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 1077, dated 7th April, 1986.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.